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APR 14 2006

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

In re Application of:

Kawa, et al

Serial No.: 10/038,296

Art Unit: 1761

Filed: January 2, 2002

For: Infused Sake and Process
for Making SameExaminer: *Kuhns, Sarah Louise*DECLARATION UNDER 37 CFR 1.132

I, K. David Crockett, Esq., hereby declare:

1. I am a registered patent attorney and have been retained by the applicant in U.S. Application 10/038,296 to assist in the prosecution of this case.
2. I have reviewed the specification, the several office applications and responses filed in this case. I understand that the Examiner in this case is rejecting claims in this case on the basis of a web page entitled "How to Homebrew Sake" (Homebrew). I further understand that the Examiner asserts that this webpage was published on
3. To test the accuracy of the Wayback Machine, I found a current webpage relating to known subject matter, which is accessible with current search engines. I chose the URL www.crockett-crockett.com, which is a website I own and control. (From time to time I update the site with information, such as information regarding attorneys that join the firm.) After selecting this known URL, I resorted to the Wayback Machine and entered a currently accessible crockett-crockett URL, and selected from the "archived" pages a suitable page an page

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which, according to the Wayback Machine, was archived in 2002. As appears in the illustration attached as Exhibit A, the Wayback Machine assigns a December 1, 2002 date to a webpage indicating content that I did not post until 2005. Specifically, the web page content includes the link for an associate, Paul Backofen, Esq., who did not join my firm until 2005. Also, the web page content includes the link for an associate, Marc Frechette, Esq., who did not join my firm until October 2004. The website was not updated with these names until I did so in August 2005. Several other archive pages in the Wayback Machine relating to my website contain information that was not added to the web page until years after the purported archive date assigned by the Wayback Machine.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, and any patent issuing thereon.

Date: April 12, 2006

By: 

K. David Crockett, Esq.
Reg. No. 34311

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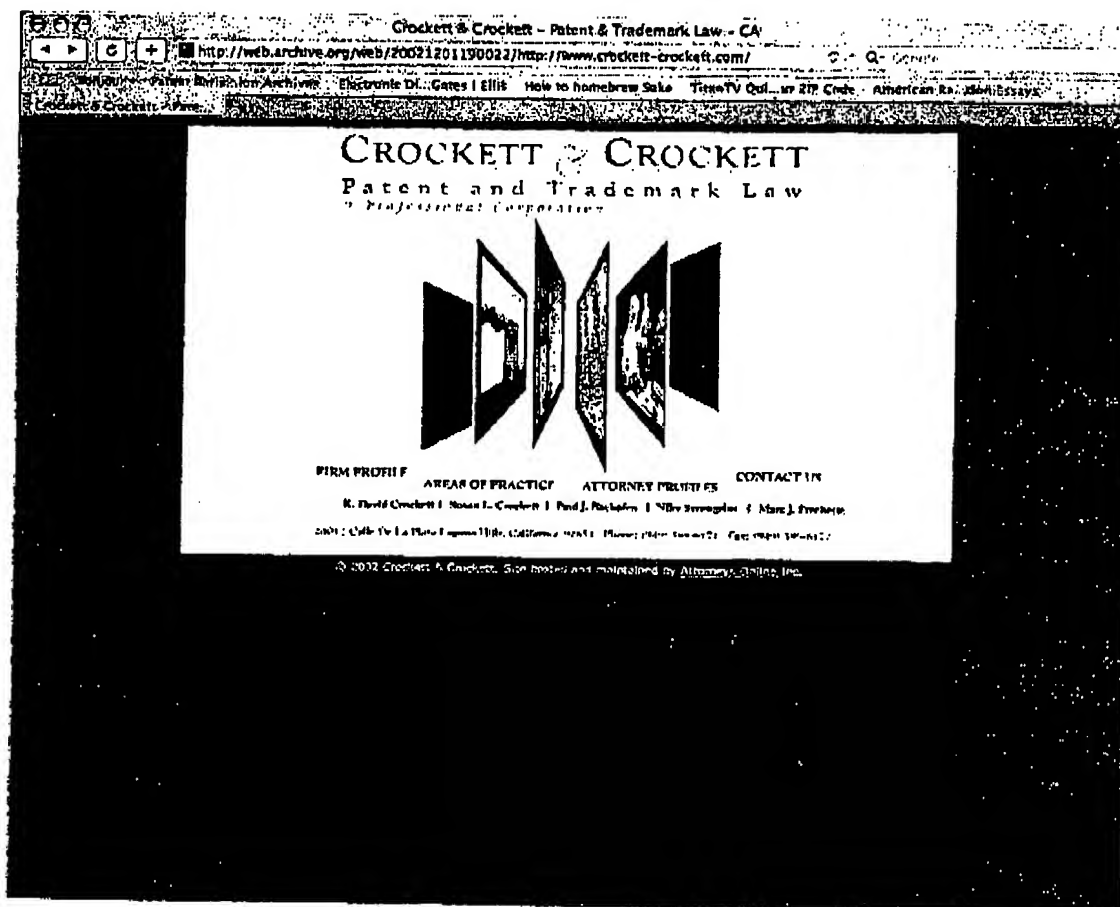


Exhibit A, showing a date of December 1, 2002 for content that was not added to this web page until August, 2005.